

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

IN RE:

JAMES EDWARD MCCABE
ANGELA MARIE MCCABE,

Debtors.

Bankr. Case No. 23-70100

JOHN P. FITZGERALD, III,
ACTING UNITED STATES TRUSTEE
FOR REGION FOUR,

Movant,

v.

JAMES EDWARD MCCABE
ANGELA MARIE MCCABE,

Respondents.

MOTION OBJECTING TO DISCHARGE

Comes now John P. Fitzgerald, III, the Acting United States Trustee for Region Four, and objects to the discharge of the debtors and, in support thereof, states as follows:

1. Movant is the United States Trustee for Region Four.
2. This contested motion arises in the bankruptcy case of James Edward McCabe and Angela Marie McCabe (“respondents” or “debtors”), case no. 23-70100. The bankruptcy case was commenced by the filing on February 14, 2023 of a voluntary petition under Chapter 13 of Title 11. The case was converted to a case under Chapter 7 on April 19, 2023, and is still pending before this court.
3. The court has jurisdiction in this motion pursuant to 28 U.S.C. § 1334 and 11 U.S.C. § 727. This is a core proceeding under 28 U.S.C. § 157(b)(2)(J).

Cause of Action

4. The allegations contained in paragraphs 1-3 are incorporated herein.

5. Within eight (8) years before February 14, 2023 and on May 19, 2015, the debtors filed a voluntary petition under Chapter 7 of Title 11. The debtors received a discharge on September 1, 2015. See case no. 15-61711 in the United States Bankruptcy Court in Eugene, Oregon.

6. Respondents' discharge should be denied under § 727(a)(8).

WHEREFORE, Movant prays that the discharge of these debtors from their debts be denied, and that Movant have such other and further relief as is just.

Dated: May 4, 2023

JOHN P. FITZGERALD, III,
Acting United States Trustee for Region Four

By: /s/ Margaret K. Garber

Margaret K. Garber (VSB No. 34412)
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NOTICE OF HEARING

PLEASE TAKE NOTICE that a hearing on the foregoing Motion will be held on June 1, 2023, at 10:30 a.m., in the U.S. Bankruptcy Court for the Western District of Virginia. This matter will be heard via zoom video. For information on how to participate, a party should contact Catherine James, Courtroom Deputy, at Catherine_James@vawb.uscourts.gov.

If you do not want the Court to grant the relief requested in the motion, then, pursuant to Local Rule 9013-1, you must file a response 7 days before the hearing date. Absent a timely filed response, a proposed order will be tendered to the Court granting the relief requested in the motion and the Court may treat the motion as conceded and enter the proposed order without the necessity of holding a hearing.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

JOHN P. FITZGERALD, III,
Acting United States Trustee for Region Four

By: /s/ Margaret K. Garber

CERTIFICATE OF SERVICE

I hereby certify that on this the 4th day of May, 2023, a true and correct copy of the foregoing motion and notice was filed into the CM/ECF system which caused same to be served upon counsel for the debtors and that copies were mailed by first-class mail and certified mail, return receipt requested to James Edward McCabe and Angela Marie McCabe and by first-class mail to counsel for the debtors.

/s/ Margaret K. Garber
Margaret K. Garber